

*I hereby certify that this PUBLIC BILL has finally passed the  
Legislative Assembly of Queensland.*

*Legislative Assembly Chamber,  
Brisbane,*

*McRae.*  
*The Clerk of the Parliament.*  
*13 September 2017*

*In the name and on behalf of the Queen, I assent to this Bill.*

*Paul de Jersey*  
*Government House,*  
*Brisbane,*

*13 September 2017*



Queensland

**No. 32 of 2017**

**A BILL for**

**An Act to amend the Ambulance Service Act 1991, the Health Ombudsman Act 2013, the Health Practitioner Regulation National Law Act 2009 and the Acts mentioned in schedule 1 for particular purposes**





## Queensland

# Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title .....	8
2	Commencement .....	8
<b>Part 2</b>	<b>Amendment of Health Practitioner Regulation National Law Act 2009</b>	
<b>Division 1</b>	<b>Amendment of Health Practitioner Regulation National Law</b>	
3	Law amended .....	9
4	Amendment of s 5 (Definitions) .....	9
5	Replacement of s 31 (Establishment of National Boards) .....	11
	31 Regulations must provide for National Boards .....	11
	31A Status of National Board .....	12
6	Amendment of s 33 (Membership of National Boards) .....	12
7	Amendment of s 34 (Eligibility for appointment) .....	12
8	Amendment of s 39 (Codes and guidelines) .....	13
9	Amendment of s 56 (Period of general registration) .....	14
10	Amendment of s 65 (Eligibility for limited registration) .....	14
11	Replacement of s 71 (Limited registration not be held for more than one purpose) .....	14
	71 Limited registration not to be held for more than one purpose .....	15
12	Amendment of s 79 (Power to check applicant's criminal history) .....	15
13	Amendment of s 95 (Endorsement as nurse practitioner) .....	15
14	Amendment of s 96 (Endorsement as midwife practitioner) .....	15
15	Amendment of s 113 (Restriction on use of protected titles) .....	16
16	Amendment of s 118 (Claims by persons as to specialist registration)	

Contents

	.....	16
17	Amendment of s 125 (Changing or removing conditions or undertaking on application by registered health practitioner or student) . . . . .	16
18	Amendment of s 126 (Changing conditions on Board's initiative)	17
19	Insertion of new s 127A . . . . .	18
	127A When matters under this subdivision may be decided by review body of a co-regulatory jurisdiction . . . . .	18
20	Replacement of s 132 (National Board may ask registered health practitioner for employer's details) . . . . .	19
	132 National Board may ask registered health practitioner for practice information . . . . .	19
21	Amendment of s 135 (Criminal history check) . . . . .	21
22	Amendment of s 151 (When National Board may decide to take no further action) . . . . .	21
23	Amendment of s 155 (Definition) . . . . .	21
24	Amendment of s 156 (Power to take immediate action) . . . . .	22
25	Insertion of new s 159A . . . . .	22
	159A Board may give information to notifier about immediate action . . . . .	22
26	Insertion of new s 167A . . . . .	23
	167A Board may give information to notifier about result of investigation . . . . .	23
27	Amendment of s 171 (Appointment of assessor to carry out assessment) . . . . .	23
28	Insertion of new s 177A . . . . .	23
	177A Board may give information to notifier about decision following assessor's report . . . . .	23
29	Replacement of s 180 (Notice to be given to health practitioner or student and notifier) . . . . .	24
	180 Notice to be given to health practitioner or student and notifier . . . . .	24
30	Amendment of s 181 (Establishment of health panel) . . . . .	24
31	Amendment of s 182 (Establishment of performance and professional standards panel) . . . . .	25
32	Amendment of s 184 (Notice to be given to registered practitioner or student) . . . . .	26
33	Amendment of s 191 (Decision of panel) . . . . .	27
34	Insertion of new s 191A and 191B . . . . .	27
	191A Decision of panel after reconsideration of suspension	27

	191B	Change of reconsideration date for suspension of registration	
		.....	28
35		Amendment of s 192 (Notice to be given about panel's decision)	29
36		Amendment of s 196 (Decision by responsible tribunal about registered health practitioner) .....	29
37		Insertion of new s 196A .....	30
	196A	Offences relating to prohibition orders .....	30
38		Amendment of s 199 (Appellable decisions) .....	31
39		Amendment of s 206 (National Board to give notice to registered health practitioner's employer) .....	31
40		Insertion of new pt 10, div 1A .....	32
	Division 1A	Australian Information Commissioner	
	212A	Application of Commonwealth AIC Act .....	32
41		Amendment of s 213 (Application of Commonwealth Privacy Act)	33
42		Amendment of s 215 (Application of Commonwealth FOI Act) ..	33
43		Replacement of s 220 (Disclosure to protect health or safety of patients or other persons) .....	34
	220	Disclosure to protect health or safety of patients or other persons .....	34
44		Replacement of s 222 (National Registers) .....	35
	222	Public national registers .....	35
45		Amendment of s 222 (Public national registers) .....	37
46		Amendment of s 223 (Specialists Registers) .....	37
47		Amendment of s 226 (National Board may decide not to include or to remove certain information in register) .....	37
48		Replacement of s 227 (Register about former registered health practitioners) .....	38
	227	Register about former registered health practitioners	38
49		Amendment of s 235 (Application of Commonwealth Ombudsman Act) .....	39
50		Amendment of s 246 (Parliamentary scrutiny of national regulations)	39
51		Amendment of s 284 (Exemption from requirement for professional indemnity insurance arrangements for midwives practising private midwifery) .....	40
52		Insertion of new pt 13 .....	40
	Part 13	Transitional and other provisions for Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017	
	Division 1	Paramedicine Board and registration of paramedics	

Contents

	306	Definitions .....	41
	307	Establishment of Paramedicine Board .....	41
	308	Powers and functions of Paramedicine Board .....	42
	309	Paramedicine Board taken to be a National Board for stated matters .....	43
	310	CAA accredited programs of study .....	43
	311	Qualifications for general registration in paramedicine for a limited period .....	44
	312	Accepted qualification for general registration in paramedicine .....	45
	313	Provisions that apply to student registration for Diploma of Paramedical Science .....	46
	314	Applications for registration in paramedicine and period of registration .....	46
	315	Applications for registration in paramedicine made but not decided before participation day .....	46
	316	Period after participation day during which an individual does not commit an offence under ss 113 and 116 .....	47
	317	Application of ss 113 and 116 to individual temporarily practising paramedicine in another jurisdiction .....	47
	Division 2	Other transitional provisions	
	318	Deciding review period for decision on application made under section 125 before commencement .....	48
	319	Deciding review period for decision after notice given under section 126 before commencement .....	49
	320	Membership of continued National Boards .....	50
	321	Offences relating to prohibition orders made before commencement .....	50
	322	Register to include prohibition orders made before commencement .....	51
	323	Public national registers .....	51
53		Amendment of sch 2 (Agency Management Committee) .....	51
54		Amendment of sch 4 (National Boards) .....	51
<b>Division 2</b>		<b>Other amendments of Health Practitioner Regulation National Law Act 2009</b>	
55		Act amended .....	52
56		Amendment of s 8 (Police commissioner may give criminal history information) .....	52
57		Amendment of s 34 (Replacement of pt 8, div 5 (Preliminary assessment)) .....	53
58		Insertion of new s 35A .....	54

	35A	Amendment of s 159A (Board may give information to notifier about immediate action) . . . . .	54
59		Insertion of new s 37A . . . . .	54
	37A	Amendment of s 167A (Board may give information to notifier about result of investigation) . . . . .	54
60		Insertion of new s 40A . . . . .	55
	40A	Amendment of s 177A (Board may give information to notifier about decision following assessor's report) . . . . .	55
61		Amendment of s 54 (Amendment of s 206 (National Board to give notice to registered health practitioner's employer) . . . . .	55
62		Amendment of s 57 (Insertion of new pt 13) . . . . .	55
<b>Part 3</b>		<b>Amendment of Health Ombudsman Act 2013</b>	
63		Act amended . . . . .	56
64		Insertion of new s 43A . . . . .	56
	43A	Relevant action may be taken despite referral . . . . .	56
65		Amendment of s 58 (Power to take immediate registration action) . . . . .	57
66		Insertion of new ss 58A and 58B . . . . .	57
	58A	Varying immediate registration action on health ombudsman's own initiative . . . . .	57
	58B	Varying immediate registration action on application by registered health practitioner . . . . .	58
67		Amendment of s 60 (Notice about immediate registration action) . . . . .	60
68		Amendment of s 64 (Health ombudsman must immediately take further relevant action) . . . . .	60
69		Amendment of s 68 (Power to issue interim prohibition orders) . . . . .	60
70		Insertion of new ss 68A and 68B . . . . .	61
	68A	Varying interim prohibition order on health ombudsman's own initiative . . . . .	61
	68B	Varying interim prohibition order on application by health practitioner . . . . .	62
71		Amendment of s 70 (Content of interim prohibition order) . . . . .	64
72		Replacement of s 71 (Notice to complainant) . . . . .	64
	71	Notice to complainant . . . . .	64
73		Amendment of s 75 (Health ombudsman must immediately take further relevant action) . . . . .	65
74		Amendment of s 84 (Progress reports) . . . . .	65
75		Amendment of s 94 (QCAT's jurisdiction) . . . . .	65
76		Amendment of s 107 (Decision about registered health practitioner other than student) . . . . .	66
77		Amendment of s 113 (Prohibition order) . . . . .	66

Contents

78	Amendment of s 117 (Panels of assessors) . . . . .	66
79	Amendment of s 277 (Meaning of employer for pt 19) . . . . .	67
80	Amendment of s 279 (Notice to employers about particular serious matters) . . . . .	67
81	Amendment of s 280 (Notice to employers about particular QCAT decisions) . . . . .	68
82	Amendment of s 282 (Notice to employers about other matters) . . . . .	68
<b>Part 4</b>	<b>Amendment of Ambulance Service Act 1991</b>	
83	Act amended . . . . .	69
84	Amendment of s 50D (Definitions for div 1) . . . . .	69
85	Amendment of s 50M (Disclosure to health ombudsman) . . . . .	70
86	Insertion of new s 50S . . . . .	70
	50S Disclosure to health practitioner registration board . . . . .	70
<b>Part 5</b>	<b>Other amendments</b>	
87	Legislation amended . . . . .	71
<b>Schedule 1</b>	<b>Other amendments</b> . . . . .	72
<b>Part 1</b>	<b>Minor or consequential amendments of Health Practitioner Regulation National Law</b>	
<b>Part 2</b>	<b>Other Acts amended</b>	
	Births, Deaths and Marriages Registration Act 2003 . . . . .	78
	Child Protection Act 1999 . . . . .	79
	Coroners Act 2003 . . . . .	79
	Corrective Services Act 2006 . . . . .	79
	Disaster Management Act 2003 . . . . .	80
	Forensic Disability Act 2011 . . . . .	80
	Hospital and Health Boards Act 2011 . . . . .	80
	Law Reform Act 1995 . . . . .	81
	Mental Health Act 2016 . . . . .	81
	Police Powers and Responsibilities Act 2000 . . . . .	81
	Police Service Administration Act 1990 . . . . .	81
	Prostitution Act 1999 . . . . .	82
	Public Health Act 2005 . . . . .	82
	Public Safety Preservation Act 1986 . . . . .	83
	Rail Safety National Law (Queensland) Act 2017 . . . . .	83
	Transport Operations (Road Use Management) Act 1995 . . . . .	83
	Weapons Act 1990 . . . . .	84
	Workers' Compensation and Rehabilitation Act 2003 . . . . .	84



**2017**

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## **A Bill**

for

**An Act to amend the *Ambulance Service Act 1991*, the *Health Ombudsman Act 2013*, the *Health Practitioner Regulation National Law Act 2009* and the Acts mentioned in schedule 1 for particular purposes**

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[s 1]

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## **The Parliament of Queensland enacts—**

# **Part 1 Preliminary**

## **1 Short title**

This Act may be cited as the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2017*.

## **2 Commencement**

(1) The following provisions commence on a day to be fixed by proclamation—

- (a) section 4(2), (4), (6) and (7);
- (b) sections 5 to 9;
- (c) sections 13 to 15;
- (d) section 17(2);
- (e) section 18(2);
- (f) sections 19 and 20;
- (g) sections 23 to 35;
- (h) sections 38 to 42;
- (i) sections 44 to 49;
- (j) section 51;
- (k) section 52, other than to the extent it inserts part 13, division 1 and section 321;
- (l) section 53 and 54;
- (m) section 57(1), (2) and (3);
- (n) sections 58 to 62;
- (o) part 3, other than sections 64, 68, 73, 74, 76 and 77;

- (p) parts 4 and 5 and schedule 1.
- (2) The following provisions commence on the day that is 28 days after the date of assent—
  - (a) sections 4(5) and 37;
  - (b) section 52, to the extent it inserts section 321.

## **Part 2                      Amendment of Health Practitioner Regulation National Law Act 2009**

### **Division 1                Amendment of Health Practitioner Regulation National Law**

#### **3            Law amended**

This division amends the Health Practitioner Regulation National Law set out in the schedule to the *Health Practitioner Regulation National Law Act 2009*.

#### **4            Amendment of s 5 (Definitions)**

- (1) Section 5, definitions *CrimTrac* and *Ministerial Council*—  
*omit.*
- (2) Section 5, definition *National Board*—  
*omit.*
- (3) Section 5—  
*insert—*

***ACC*** means the Australian Crime Commission established under section 7 of the *Australian Crime Commission Act 2002* (Cwlth).

***Ministerial Council*** means the COAG Health Council, or a successor of the Council by

[s 4]

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whatever name called, constituted by Ministers of the governments of the participating jurisdictions and the Commonwealth with portfolio responsibility for health.

(4) Section 5—

*insert—*

**National Board** means a National Health Practitioner Board continued or established by regulations made under section 31.

(5) Section 5—

*insert—*

**prohibition order** means—

- (a) a decision by a responsible tribunal of this jurisdiction under section 196(4)(b); or
- (b) a decision by a responsible tribunal of another participating jurisdiction under section 196(4)(b) as it applies in the other jurisdiction; or
- (c) a prohibition order under section 149C(5) of the *Health Practitioner Regulation National Law (NSW)*; or
- (d) a decision under section 107(4)(b) of the *Health Ombudsman Act 2013 (Qld)*.

(6) Section 5, definition *health profession*, paragraph (g)—

*omit, insert—*

(g) midwifery;

(ga) nursing;

(7) Section 5, definition *health profession*, after paragraph (j)—

*insert—*

(ja) paramedicine;

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## 5 Replacement of s 31 (Establishment of National Boards)

Section 31—

*omit, insert—*

### 31 Regulations must provide for National Boards

- (1) The regulations must provide for a National Health Practitioner Board for each health profession.
- (2) The regulations may—
  - (a) continue an existing Board for a health profession; or
  - (b) establish a Board for a health profession or for 2 or more health professions; or
  - (c) dissolve a Board for a health profession (the ***dissolved Board***) if another Board is established for that health profession (the ***replacement Board***).
- (3) The regulations may provide for anything for which it is necessary or convenient to make provision to allow, facilitate or provide for the following—
  - (a) the continuation, establishment or dissolution of a Board under subsection (2);
  - (b) the completion of a matter started by the existing Board before the commencement;
  - (c) the effect of anything done by an existing Board before the commencement;
  - (d) the transfer of matters from a dissolved Board to a replacement Board.
- (4) Before a regulation is made under subsection (2)(b) or (c), the Ministers comprising the Ministerial Council must undertake public consultation on the proposed regulation.
- (5) However, failure to comply with subsection (4)

[s 6]

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does not affect the validity of the regulation.

(6) In this section—

***existing Board*** means a National Health Practitioner Board in existence immediately before the commencement.

### **31A Status of National Board**

(1) A National Board—

- (a) is a body corporate with perpetual succession; and
- (b) has a common seal; and
- (c) may sue and be sued in its corporate name.

(2) A National Board represents the State.

## **6 Amendment of s 33 (Membership of National Boards)**

(1) Section 33(5)—

*insert—*

- (c) if the National Board is established for 2 or more health professions—at least one member of each health profession for which the Board is established.

(2) After section 33(9)—

*insert—*

- (9A) The regulations may prescribe matters relating to the composition of practitioner members for a National Board established for 2 or more health professions.

## **7 Amendment of s 34 (Eligibility for appointment)**

(1) Section 34(2)—

*omit, insert—*

- (2) A person is eligible to be appointed as a practitioner member only if the person is a registered health practitioner in a health profession for which the Board is established.

- (2) Section 34(3)—

*omit, insert—*

- (3) A person is eligible to be appointed as a community member only if the person is not, and has not at any time been, a health practitioner in a health profession for which the Board is established.

- (3) Section 34(4)(a)—

*omit, insert—*

- (a) in the case of appointment as a practitioner member—the person has, whether before or after the commencement of this Law, as a result of the person's misconduct, impairment or incompetence, ceased to be registered as a health practitioner in a health profession for which the Board is established; or

## **8 Amendment of s 39 (Codes and guidelines)**

Section 39, example—

*omit, insert—*

*Examples—*

- 1 A National Board may develop guidelines about the advertising of regulated health services by health practitioners registered by the Board or other persons for the purposes of section 133.
- 2 To assist a health practitioner in providing practice information under section 132, a National Board may develop guidelines about the information that must be provided to the Board.

[s 9]

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**9 Amendment of s 56 (Period of general registration)**

Section 56(2)(a)—

*omit, insert—*

- (a) starts—
  - (i) when the Board makes the decision; or
  - (ii) on the later day stated by the Board, not more than 90 days after the day the Board makes the decision; and

**10 Amendment of s 65 (Eligibility for limited registration)**

After section 65(1)—

*insert—*

- (1A) Subsection (1B) applies if—
  - (a) an individual is registered in a health profession for which divisions are included in the National Register kept for the profession; and
  - (b) the individual holds general or limited registration in a division.
- (1B) Despite subsection (1)(a) and (b), the individual is eligible for limited registration in another division of the profession if the individual—
  - (a) is not qualified for general registration under the other division; and
  - (b) is qualified under this Division for limited registration under the other division.

**11 Replacement of s 71 (Limited registration not be held for more than one purpose)**

Section 71—

*omit, insert—*



**71 Limited registration not to be held for more than one purpose**

- (1) Subsection (2) applies to a health profession for which a division is not included in the National Register kept for the profession.
- (2) An individual registered in the health profession may not hold limited registration in the same health profession for more than one purpose under this Division at the same time.
- (3) Subsection (4) applies to a health profession for which divisions are included in the National Register kept for the profession.
- (4) An individual registered in the health profession may not hold limited registration in the same division of the profession for more than one purpose under this Division at the same time.

**12 Amendment of s 79 (Power to check applicant's criminal history)**

Section 79(2)(a), 'CrimTrac'—  
*omit, insert—*  
ACC

**13 Amendment of s 95 (Endorsement as nurse practitioner)**

Section 95(1), 'Nursing and Midwifery Board of Australia'—  
*omit, insert—*  
National Board for the nursing profession

**14 Amendment of s 96 (Endorsement as midwife practitioner)**

Section 96(1), 'Nursing and Midwifery Board of Australia'—  
*omit, insert—*

[s 15]

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National Board for the midwifery profession

**15 Amendment of s 113 (Restriction on use of protected titles)**

- (1) Section 113, table, entry for Nursing and Midwifery—  
*omit, insert—*

Midwifery	midwife, midwife practitioner
Nursing	nurse, registered nurse, nurse practitioner, enrolled nurse

- (2) Section 113, table, after entry for Osteopathy—  
*insert—*

Paramedicine	paramedic
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**16 Amendment of s 118 (Claims by persons as to specialist registration)**

- Section 118(2)(b), after ‘another person’—  
*insert—*

who is not a specialist health practitioner

**17 Amendment of s 125 (Changing or removing conditions or undertaking on application by registered health practitioner or student)**

- (1) Section 125(2)(b), after ‘when imposing the condition’—  
*insert—*

or at a later time

- (2) Section 125(6)—  
*omit, insert—*

- (6) If the National Board’s decision results in the  
registration or endorsement being subject to a

condition, or an undertaking is still in place, the Board may decide a review period for the condition or undertaking.

(6A) As soon as practicable after making the decision under subsection (5), the National Board must give written notice to the registered health practitioner or student of—

- (a) the decision; and
- (b) if the Board has decided a review period for a condition or undertaking—details of the review period.

## **18 Amendment of s 126 (Changing conditions on Board's initiative)**

(1) Section 126(3)(b), after 'when imposing the condition'—

*insert—*

or at a later time

(2) Section 126(6)—

*omit, insert—*

(6) If the National Board's decision results in the registration being subject to a condition, the Board may decide a review period for the condition.

(6A) As soon as practicable after making the decision under subsection (5), the National Board must give written notice to the registered health practitioner or student of—

- (a) the decision; and
- (b) if the Board has decided a review period for a condition—details of the review period.

[s 19]

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## **19 Insertion of new s 127A**

After section 127—

*insert—*

### **127A When matters under this subdivision may be decided by review body of a co-regulatory jurisdiction**

- (1) This section applies if—
  - (a) a condition has been imposed on a registered health practitioner's or student's registration or endorsement, or an undertaking has been given by the practitioner or student; and
  - (b) a change or removal of the condition, or change or revocation of the undertaking, would usually be decided under this Subdivision; and
  - (c) the National Board that imposed the condition, or to which the undertaking was given, considers the change or removal, or change or revocation, should be decided by a review body of a co-regulatory jurisdiction.
- (2) The National Board may—
  - (a) decide that any change or removal, or change or revocation, may be decided by the review body of a co-regulatory jurisdiction; and
  - (b) give any relevant documents or information held by the Board to the review body.
- (3) If a review body of a co-regulatory jurisdiction is to decide a matter instead of the Board, the review body must decide the matter under the laws of that jurisdiction.
- (4) In this section—

*review body* means an entity declared by an Act or regulation of a co-regulatory jurisdiction to be a review body for this section.

**20 Replacement of s 132 (National Board may ask registered health practitioner for employer's details)**

Section 132—

*omit, insert—*

**132 National Board may ask registered health practitioner for practice information**

- (1) A National Board may, at any time by written notice given to a health practitioner registered in a health profession for which the Board is established, ask the practitioner to give the Board a written notice containing practice information for the practitioner.
- (2) The registered health practitioner must not, without reasonable excuse, fail to comply with the notice from the Board.
- (3) A contravention of subsection (2) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (4) In this section—

*practice information*, for a registered health practitioner practising in the health profession for which the practitioner is registered, means each of the following if it applies to the practitioner—

- (a) if the practitioner is self-employed and shares premises with other registered health practitioners with whom the practitioner shares the cost of the premises—
  - (i) that the practitioner is self-employed;  
and

[s 20]

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- (ii) the address of each of the premises at which the practitioner practises; and
  - (iii) if the practitioner practises under a business name or names, each business name; and
  - (iv) the names of the other registered health practitioners with whom the practitioner shares premises;
- (b) if the practitioner is self-employed and paragraph (a) does not apply—that the practitioner is self-employed, the address of each of the premises at which the practitioner practises and, if the practitioner practises under a business name or names, each business name;
- (c) if the practitioner is engaged by one or more entities under a contract of employment, contract for services or any other arrangement or agreement—the name, address and contact details of each entity;
- (d) if the practitioner is providing services for or on the behalf of one or more entities, whether in an honorary capacity, as a volunteer or otherwise, and whether or not the practitioner receives payment from an entity for the services—the name, address and contact details of each entity;

*Example for paragraph (d)—*

A physiotherapist practises physiotherapy as a volunteer at a sporting club or charity under an arrangement with that entity

- (e) if the practitioner practises under a name or names that are not the same as the name under which the practitioner is registered under this Law—the other name or names.

***premises at which the practitioner practises*** does

not include the residential premises of a patient of the practitioner.

**21 Amendment of s 135 (Criminal history check)**

Section 135(1)(a), ‘CrimTrac’—

*omit, insert—*

ACC

**22 Amendment of s 151 (When National Board may decide to take no further action)**

Section 151(1)(e) —

*omit, insert—*

(e) the subject matter of the notification—

(i) is being dealt with, or has already been dealt with, by another entity; or

(ii) has been referred by the Board to another entity to be dealt with by that entity; or

(f) the health practitioner to whom the notification relates has taken appropriate steps to remedy the matter the subject of the notification and the Board reasonably believes no further action is required in relation to the notification.

**23 Amendment of s 155 (Definition)**

Section 155, definition *immediate action*, after paragraph (c)—

*insert—*

(d) if immediate action has previously been taken suspending a health practitioner’s or student’s registration—the revocation of the

[s 24]

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suspension and the imposition of a condition on the registration; or

- (e) if immediate action has previously been taken imposing a condition on a health practitioner's or student's registration—the suspension of the registration instead of the condition.

## **24 Amendment of s 156 (Power to take immediate action)**

Section 156(1)—

*insert—*

- (e) the National Board reasonably believes the action is otherwise in the public interest.

*Example of when action may be taken in the public interest—*

A registered health practitioner is charged with a serious criminal offence, unrelated to the practitioner's practice, for which immediate action is required to be taken to maintain public confidence in the provision of services by health practitioners.

## **25 Insertion of new s 159A**

Part 8, division 7, after section 159—

*insert—*

### **159A Board may give information to notifier about immediate action**

- (1) This section applies if a notification about a registered health practitioner or student results in immediate action by a National Board under this division in relation to the practitioner or student.
- (2) After deciding to take the immediate action, the National Board may inform the notifier who made the notification of the decision and the reasons for the decision.



**26 Insertion of new s 167A**

Part 8, division 8, after section 167—

*insert—*

**167A Board may give information to notifier about result of investigation**

- (1) This section applies if a notification about a registered health practitioner or student results in a decision by a National Board under section 167 in relation to the practitioner or student.
- (2) After making the decision, the National Board may inform the notifier who made the notification of the decision and the reasons for the decision.

**27 Amendment of s 171 (Appointment of assessor to carry out assessment)**

Section 171(2)(b)—

*omit, insert—*

- (b) for a performance assessment, a registered health practitioner who—
  - (i) is a member of the same health profession as the registered health practitioner or student undergoing assessment; but
  - (ii) is not a member of the National Board established for that profession.

**28 Insertion of new s 177A**

Part 8, division 9, after section 177—

*insert—*

**177A Board may give information to notifier about decision following assessor's report**

- (1) This section applies if a notification about a

[s 29]

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registered health practitioner or student results in a decision by a National Board under section 177 in relation to the practitioner or student.

- (2) After making the decision, the National Board may inform the notifier who made the notification of the decision and the reasons for the decision.

**29 Replacement of s 180 (Notice to be given to health practitioner or student and notifier)**

Section 180—

*omit, insert—*

**180 Notice to be given to health practitioner or student and notifier**

- (1) As soon as practicable after making a decision under section 179(2) or 178(2), if section 179 does not apply, the National Board must give written notice of the decision to—
- (a) the registered health practitioner or student; and
  - (b) if the decision was the result of a notification, the notifier.
- (2) A notice under subsection (1)(b) may also include the reasons for the decision.

**30 Amendment of s 181 (Establishment of health panel)**

- (1) After section 181(1)—

*insert—*

- (1A) Also, a National Board must establish a health panel if the suspension of a practitioner's or student's registration is to be reconsidered under section 191(4A) or 191A(2)(c).

- (2) Section 181(2)—

*omit, insert—*

- 
- (2) A health panel must consist of the following members chosen from a list referred to in section 183—
- (a) at least one member who is a registered health practitioner in the same health profession as the registered health practitioner or student the subject of the hearing;
  - (b) at least one member who is a medical practitioner with expertise relevant to the matter the subject of the hearing;
  - (c) at least one member who is not, and has not been, a registered health practitioner in the same health profession as the registered health practitioner or student the subject of the hearing.
- (3) Section 181(4) and (5)—  
*omit, insert—*
- (4) No more than half of the members of the panel may be registered health practitioners in the same health profession as the registered health practitioner or student the subject of the hearing.
  - (5) However, for subsection (4), if the subject of the hearing is a registered health practitioner who is a medical practitioner, a member of the panel referred to in subsection (2)(b) is not to be considered to be registered in the same health profession as the registered health practitioner the subject of the hearing.

### **31 Amendment of s 182 (Establishment of performance and professional standards panel)**

Section 182(4)—

*omit, insert—*

[s 32]

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- (4) At least half, but no more than two-thirds, of the members of the panel must be persons who are —
  - (a) registered health practitioners in the same health profession as the registered health practitioner the subject of the hearing; and
  - (b) chosen from a list approved under section 183.

**32 Amendment of s 184 (Notice to be given to registered practitioner or student)**

After section 184(2)—

*insert—*

- (3) For a panel established under section 181(1A), the panel—
  - (a) may decide the hearing may be decided entirely on the basis of documents, without parties, their representatives or witnesses appearing at the hearing; and
  - (b) if the hearing is to be decided entirely on the basis of documents—must give written notice of the decision to the registered health practitioner or student the subject of the hearing.
- (4) The health practitioner or student may within 14 days after receiving the notice under subsection (3)(b) give a written notice to the panel—
  - (a) requesting a hearing; and
  - (b) undertaking to be available to attend the hearing within 28 days after giving the notice.
- (5) If the health practitioner or student gives a notice under subsection (4), the panel must give the health practitioner or student notice under subsection (1) stating a day for the hearing that is

not more than 28 days after the practitioner's or student's notice was given.

- (6) Subsection (1) does not apply if—
- (a) the panel makes a decision under subsection (3); and
  - (b) the health practitioner or student does not give notice under subsection (4).

### **33 Amendment of s 191 (Decision of panel)**

Section 191, after subsection (4)—

*insert—*

- (4A) If a panel suspends a health practitioner's or student's registration, the panel must decide a date (the ***reconsideration date***) by which the suspension must be reconsidered by a panel established under section 181(1A).

### **34 Insertion of new s 191A and 191B**

After section 191—

*insert—*

#### **191A Decision of panel after reconsideration of suspension**

- (1) This section applies if the suspension of a health practitioner's or student's registration is reconsidered by a panel established under section 181(1A).
- (2) The panel may—
- (a) revoke the suspension; or
  - (b) revoke the suspension, impose conditions under section 191(3)(a) and decide a review period for the conditions under section 191(4); or

[s 34]

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- (c) not revoke the suspension and decide a new reconsideration date.

### **191B Change of reconsideration date for suspension of registration**

- (1) This section applies if the suspension of a health practitioner's or student's registration is to be reconsidered by a panel established under section 181(1A) on a reconsideration date.
- (2) The panel may decide an earlier reconsideration date if—
  - (a) the health practitioner or student advises the panel of a material change in the practitioner's or student's circumstances and requests an earlier reconsideration date because of the change; and
  - (b) the panel is reasonably satisfied an earlier reconsideration date is necessary because of the change in circumstances.
- (3) For subsection (2), the panel must give the practitioner or student written notice of—
  - (a) if the panel decides an earlier reconsideration date—the earlier date; or
  - (b) if the panel decides to refuse the request for an earlier reconsideration date—the panel's decision and the reasons for the decision.
- (4) The panel may decide a later reconsideration date if the panel is reasonably satisfied it is necessary to enable the panel to reconsider the suspension.

*Examples of when the panel may be reasonably satisfied a later reconsideration date may be decided—*

- (a) the health practitioner or student is required for a hearing and cannot attend because of illness;

- (b) the panel requires extra time to consider further evidence supplied by the health practitioner or student;
  - (c) extra time is required to appoint a panel member for a panel member who is ill.
- (5) For subsection (4), the panel must give the health practitioner or student written notice of the later reconsideration date and the reasons for the decision.
- (6) The suspension of the health practitioner's or student's registration remains in force until the panel makes a decision to revoke the suspension.

**35 Amendment of s 192 (Notice to be given about panel's decision)**

- (1) Section 192(1), after 'section 191'—  
*insert—*  

or 191A
- (2) Section 192(4)—  
*omit, insert—*
  - (4) A notice under subsection (2)(b) may also include the reasons for the decision.

**36 Amendment of s 196 (Decision by responsible tribunal about registered health practitioner)**

Section 196(4)(b)—  
*omit, insert—*

- (b) prohibit the person, either permanently or for a stated period, from—
  - (i) providing any health service or a specified health service; or
  - (ii) using any title or a specified title.

[s 37]

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## **37 Insertion of new s 196A**

After section 196—

*insert—*

### **196A Offences relating to prohibition orders**

- (1) A person must not contravene a prohibition order.  
Maximum penalty—\$30,000.
- (2) A person who is subject to a prohibition order (the *prohibited person*) must, before providing a health service, give written notice of the order to the following persons—
  - (a) the person to whom the prohibited person intends to provide the health service or, if that person is under 16 years of age or under guardianship, a parent or guardian of the person;
  - (b) if the health service is to be provided by the prohibited person as an employee—the person's employer;
  - (c) if the health service is to be provided by the prohibited person under a contract for services or any other arrangement with an entity—that entity;
  - (d) if the health service is to be provided by the prohibited person as a volunteer for or on behalf of an entity—that entity.

Maximum penalty—\$5,000.

- (3) A person must not advertise a health service to be provided by a prohibited person unless the advertisement states that the prohibited person is subject to a prohibition order.

Maximum penalty—

- (a) in the case of an individual—\$5,000; or
- (b) in the case of a body corporate—\$10,000.



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**38 Amendment of s 199 (Appellable decisions)**

After section 199(1)(j)—

*insert—*

- (ja) a decision by a health panel not to revoke a suspension;

**39 Amendment of s 206 (National Board to give notice to registered health practitioner's employer)**

- (1) Section 206, heading, after 'employer'—

*insert—*

**and other entities**

- (2) Section 206(1)(b) and note—

*omit, insert—*

- (b) the National Board has been given practice information under section 132 or becomes aware of practice information it should have been given under that section.

- (3) Section 206(2)—

*omit, insert—*

- (2) The National Board, as soon as practicable after making the decision or receiving the notice—

- (a) if the practice information given to the Board, or of which the Board becomes aware, is information referred to in section 132(4)(a) and includes the names of other registered health practitioners—may give written notice to each of those practitioners of the decision to take health, conduct or performance action against the registered health practitioner; or

- (b) if the practice information given to the Board, or of which the Board becomes aware, is information referred to in section

[s 40]

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132(4) (c) or (d) and includes the name of an entity—must give written notice to the entity of the decision to take health, conduct or performance action against the registered health practitioner.

#### **40 Insertion of new pt 10, div 1A**

Part 10, before division 1—

*insert—*

### **Division 1A Australian Information Commissioner**

#### **212A Application of Commonwealth AIC Act**

- (1) The AIC Act applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme.
- (2) For the purposes of subsection (1), the AIC Act applies—
  - (a) as if a reference to the Office of the Australian Information Commissioner were a reference to the Office of the National Health Practitioner Privacy Commissioner; and
  - (b) as if a reference to the Information Commissioner were a reference to the National Health Practitioner Privacy Commissioner; and
  - (c) with any other modifications made by the regulations.
- (3) Without limiting subsection (2)(c), the regulations may—
  - (a) provide that the AIC Act applies under subsection (1) as if a provision of the AIC

Act specified in the regulations were omitted; or

- (b) provide that the AIC Act applies under subsection (1) as if an amendment to the AIC Act made by a law of the Commonwealth, and specified in the regulations, had not taken effect; or
  - (c) confer jurisdiction on a tribunal or court of a participating jurisdiction.
- (4) In this section—

*AIC Act* means the *Australian Information Commissioner Act 2010* of the Commonwealth, as in force from time to time.

#### **41 Amendment of s 213 (Application of Commonwealth Privacy Act)**

- (1) Section 213(2)—

*omit, insert—*

- (2) For the purposes of subsection (1), the Privacy Act applies—
- (a) as if a reference to the Commissioner were a reference to the National Health Practitioner Privacy Commissioner; and
  - (b) with any other modifications made by the regulations.

- (2) Section 213(3), ‘subsection (2)(c)’—

*omit, insert—*

‘subsection (2)(b)’

#### **42 Amendment of s 215 (Application of Commonwealth FOI Act)**

- (1) Section 215(2)—

[s 43]

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*omit, insert—*

- (2) For the purposes of subsection (1), the FOI Act applies—
  - (a) as if a reference to the Office of the Australian Information Commissioner were a reference to the Office of the National Health Practitioner Privacy Commissioner; and
  - (b) as if a reference to the Information Commissioner were a reference to the National Health Practitioner Privacy Commissioner; and
  - (c) with any other modifications made by the regulations.
- (2) Section 215(3), ‘subsection (2)’—

*omit, insert—*

subsection (2)(c)

#### **43 Replacement of s 220 (Disclosure to protect health or safety of patients or other persons)**

Section 220—

*omit, insert—*

##### **220 Disclosure to protect health or safety of patients or other persons**

- (1) This section applies if a National Board reasonably believes that—
  - (a) either of the following poses, or may pose, a risk to public health—
    - (i) a registered health practitioner;
    - (ii) a person who provides a health service but is not a registered health practitioner; or

- (b) the health or safety of a patient or class of patients is or may be at risk because of—
  - (i) a registered health practitioner's practice as a health practitioner; or
  - (ii) the provision of a health service by a person who is not a registered health practitioner.
- (2) The National Board may give written notice of the risk and any relevant information about a person mentioned in subsection (1)(a) or (b) to an entity of the Commonwealth or a State or Territory that the Board considers may be required to take action in relation to the risk.

#### 44 Replacement of s 222 (National Registers)

Section 222—

*omit, insert—*

##### **222 Public national registers**

- (1) A public national register, with the name listed in column 1 of the following table, is to be kept for each health profession.
- (2) A public national register for a health profession is to include the names of all health practitioners (other than specialist health practitioners) currently registered in the profession.
- (3) If divisions are listed beside the public national register in column 2 of the Table, the register is to be kept in a way that ensures it includes those divisions.
- (4) In addition, a public national register for a health profession is to include—
  - (a) the names of all health practitioners (other than specialist health practitioners) whose

[s 44]

- registration has been cancelled by an adjudication body; and
- (b) the names of all persons (other than specialist health practitioners or persons who were previously specialist health practitioners) subject to a prohibition order.
- (5) A public national register required to be kept under this section is to be kept by the National Board prescribed by the regulations for the register, in conjunction with the National Agency.

**Table—Public national registers**

<b>Name of public national register</b>	<b>Divisions of public national register</b>
Register of Aboriginal and Torres Strait Islander Health Practitioners	
Register of Chinese Medicine Practitioners	Acupuncturists, Chinese herbal medicine practitioners, Chinese herbal dispensers
Register of Chiropractors	
Register of Dental Practitioners	Dentists, Dental therapists, Dental hygienists, Dental prosthetists, Oral health therapists
Register of Medical Practitioners	
Register of Medical Radiation Practitioners	Diagnostic radiographers, Nuclear medicine technologists, Radiation therapists
Register of Midwives	
Register of Nurses	Registered nurses (Division 1), Enrolled nurses (Division 2)
Register of Occupational Therapists	
Register of Optometrists	

Name of public national register	Divisions of public national register
Register of Osteopaths	
Register of Pharmacists	
Register of Physiotherapists	
Register of Podiatrists	
Register of Psychologists	

**45 Amendment of s 222 (Public national registers)**

Section 222, table, after entry for Register of Osteopaths—  
*insert—*

Register of Paramedics

**46 Amendment of s 223 (Specialists Registers)**

Section 223(b)—  
*omit, insert—*

- (b) a public national register that includes the names of all—
  - (i) specialist health practitioners whose registration has been cancelled by an adjudication body; and
  - (ii) persons who are subject to a prohibition order.

**47 Amendment of s 226 (National Board may decide not to include or to remove certain information in register)**

- (1) Section 226(1) and (2), ‘its National Register or Specialists Register’—  
*omit, insert—*

[s 48]

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a National Register or Specialists Register in which the practitioner's name is included

- (2) Section 226(3), 'the National Register or Specialists Register'—

*omit, insert—*

a National Register or Specialists Register in which the practitioner's name is included

#### **48 Replacement of s 227 (Register about former registered health practitioners)**

Section 227—

*omit, insert—*

##### **227 Register about former registered health practitioners**

A register kept by a National Board under section 222 or 223(b) must include the following—

- (a) for each health practitioner whose registration was cancelled by an adjudication body—
  - (i) the fact the practitioner's registration was cancelled by an adjudication body; and
  - (ii) the grounds on which the practitioner's registration was cancelled; and
  - (iii) if the adjudication body's hearing was open to the public, details of the conduct that formed the basis of the adjudication;
- (b) for each person subject to a prohibition order, a copy of the order.



**49 Amendment of s 235 (Application of Commonwealth Ombudsman Act)**

Section 235(2)(a), ‘Practitioners’—

*omit, insert—*

Practitioner

**50 Amendment of s 246 (Parliamentary scrutiny of national regulations)**

Section 246(1)—

*omit, insert—*

- (1) A regulation made under this Law must be tabled in, or notice of its making given to, the Parliament of each participating jurisdiction—
  - (a) if a regulation made under an Act of that jurisdiction must be tabled in the Parliament of that jurisdiction—in the same way a regulation must be tabled in that jurisdiction; or
  - (b) if notice of the making of a regulation made under an Act of that jurisdiction must be given to the Parliament of that jurisdiction—in the same way notice must be given in that jurisdiction.
- (1A) However, failure to comply with subsection (1) does not affect the validity of the regulation.
- (1B) The regulation may be disallowed in a participating jurisdiction by a House of the Parliament of that jurisdiction in the same way that a regulation made under an Act of that jurisdiction may be disallowed.
- (1C) However, subsection (1D) applies if—
  - (a) a regulation is not tabled in accordance with the law of a participating jurisdiction; and

[s 51]

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(b) under the law of that jurisdiction a regulation may be disallowed only after its tabling.

(1D) The regulation is taken to have been tabled in the Parliament of that jurisdiction on the first sitting day after the regulation was required to be tabled under the law of the jurisdiction.

**51 Amendment of s 284 (Exemption from requirement for professional indemnity insurance arrangements for midwives practising private midwifery)**

(1) Section 284(5), definition *National Board*, ‘Nursing and Midwifery Board of Australia’—

*omit, insert—*

National Board for midwifery

(2) Section 284(5), definition *private midwifery*, ‘nursing and’—  
*omit.*

**52 Insertion of new pt 13**

After section 305—

*insert—*

**Part 13**

**Transitional and other provisions for Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017**

**Division 1**

**Paramedicine Board and registration of paramedics**

### 306 Definitions

In this division—

***Ambulance Service of New South Wales***, for the issue of a Diploma of Paramedical Science, includes another entity prescribed by regulation for issuing the diploma.

***Diploma of Paramedical Science*** see section 312(5).

***Paramedicine Board*** means—

- (a) the Paramedicine Board of Australia established under section 307; or
- (b) the Board continued in force on the participation day by a regulation made under section 31; or
- (c) if, after the participation day, the Paramedicine Board is dissolved and replaced by another Board established for the health profession of paramedicine by a regulation made under section 31—the other Board.

***participation day*** means a day prescribed by regulation after which an individual may be registered in paramedicine under this Law.

***relevant day*** means the day that is 3 years after the participation day.

### 307 Establishment of Paramedicine Board

- (1) The Paramedicine Board of Australia is established as a National Health Practitioner Board for the health profession of paramedicine.
- (2) The Board—
  - (a) is a body corporate with perpetual succession; and

[s 52]

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- (b) has a common seal; and
  - (c) may sue and be sued in its corporate name.
- (3) The Board represents the State.
- (4) This section applies until the Board is continued in force by a regulation made under section 31.

### **308 Powers and functions of Paramedicine Board**

- (1) Sections 32, 33, 34, 37, 40, 234 and schedule 4 apply to the Paramedicine Board until the participation day.
- (2) However, for section 34, the Ministerial Council may, until the participation day, appoint as practitioner members persons who the Council is satisfied have skills and experience in paramedicine relevant to the Board's functions.
- (3) The Paramedicine Board may perform the following functions until the participation day—
  - (a) develop and recommend one or more registration standards to the Ministerial Council under section 38 for its approval under section 12;
  - (b) develop and approve codes and guidelines under section 39;
  - (c) decide the day after which individuals may apply for registration in paramedicine;
  - (d) do anything under part 6 in relation to accreditation for paramedicine;
  - (e) do anything under part 7 to register individuals in paramedicine;
  - (f) anything else the Board may do under this division.

### **309 Paramedicine Board taken to be a National Board for stated matters**

The Paramedicine Board is taken to be a National Board for the following provisions of this Law until the participation day—

- (a) part 2;
- (b) part 4;
- (c) part 9;
- (d) part 10, except for division 3;
- (e) section 236.

### **310 CAA accredited programs of study**

- (1) The Paramedicine Board may, until the relevant day, approve, or refuse to approve, a CAA accredited program of study as providing a qualification for the purposes of registration in paramedicine.
- (2) An approval of a program of study under subsection (1)—
  - (a) may be granted subject to the conditions the Board considers necessary or desirable in the circumstances; and
  - (b) does not take effect until the program is included in the list published under subsection (3).
- (3) A program of study approved by the Board under subsection (1) must—
  - (a) be published in a list on the National Agency's website; and
  - (b) include, for each program of study, the name of the education provider that provides the program.
- (4) A program of study approved under this section is

[s 52]

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taken to be an approved program of study for this Law.

(5) This section applies despite section 49(1).

(6) In this section—

***CAA accredited program of study*** means a program of study accredited by the Council of Ambulance Authorities Inc. and published on the Council's website—

(a) immediately before the commencement; or

(b) between the commencement and the participation day.

### **311 Qualifications for general registration in paramedicine for a limited period**

(1) For the purposes of section 52(1)(a), an individual who applies for registration in paramedicine before the relevant day is qualified for general registration in paramedicine if the individual—

(a) holds a qualification or has completed training in paramedicine, whether in a participating jurisdiction or elsewhere, that the Paramedicine Board considers is adequate for the purposes of practising the profession; or

(b) holds a qualification or has completed training in paramedicine, whether in a participating jurisdiction or elsewhere, and has completed any further study, training or supervised practice in the profession required by the Paramedicine Board for the purposes of this section; or

(c) has practised paramedicine during the 10 years before the participation day for a consecutive period of 5 years or for any periods which together amount to 5 years

and satisfies the Paramedicine Board that he or she is competent to practise paramedicine.

- (2) This section applies despite section 53.

### **312 Accepted qualification for general registration in paramedicine**

- (1) This section applies to an individual who holds a Diploma of Paramedical Science issued by the Ambulance Service of New South Wales.
- (2) The individual is qualified for general registration in paramedicine for the purposes of section 52(1)(a).
- (3) This section applies despite section 53.
- (4) Nothing in this section makes a Diploma of Paramedical Science issued by the Ambulance Service of New South Wales an approved qualification for section 53(b).
- (5) In this section—

*Diploma of Paramedical Science* means any of the following—

- (a) a Diploma of Paramedical Science;
- (b) a Diploma of Paramedical Science (Ambulance) or an Advanced Diploma of Paramedical Science (Ambulance);
- (c) a Diploma in Paramedical Science (Pre-Hospital Care) or an Advanced Diploma Paramedical Sciences (Pre-Hospital Care);
- (d) a qualification—
  - (i) that has replaced the diploma mentioned in paragraph (a) and is prescribed by regulation; and

[s 52]

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- (ii) issued by the Ambulance Service of New South Wales.

### **313 Provisions that apply to student registration for Diploma of Paramedical Science**

A Diploma of Paramedical Science issued by the Ambulance Service of New South Wales is taken to be an approved program of study for Part 7, division 7, subdivisions 1 and 3.

### **314 Applications for registration in paramedicine and period of registration**

- (1) An individual may apply to the Paramedicine Board for registration in paramedicine—
  - (a) before the participation day; and
  - (b) after the day decided by the Board under section 308(3)(c).
- (2) Subsection (3) applies if an individual applies for registration in paramedicine under subsection (1) and the Board grants the application under part 7.
- (3) Despite section 56, the registration period—
  - (a) does not start until the participation day; and
  - (b) may be a period of not more than 2 years decided by the Board.

### **315 Applications for registration in paramedicine made but not decided before participation day**

- (1) This section applies if—
  - (a) before the participation day an individual applies to the Paramedicine Board for registration in paramedicine; and
  - (b) the application is not decided by the Board by the participation day; and



- (c) while the application for registration is being decided, the individual takes or uses a title, or does anything else, relating to paramedicine, that would contravene section 113 or 116.
- (2) The individual does not commit an offence against section 113 or 116 while the application is being decided.

*Note—*

See section 85 for when an application not decided by a National Board is taken to be a decision to refuse the application.

### **316 Period after participation day during which an individual does not commit an offence under ss 113 and 116**

- (1) This section applies if an individual eligible for registration in paramedicine—
  - (a) has not applied to the Paramedicine Board for registration in paramedicine before the participation day; and
  - (b) takes or uses a title, or does anything else, relating to paramedicine, that would contravene section 113 or 116.

*Note—*

An individual may be qualified for general registration in paramedicine under section 311 or 312.

- (2) The individual does not commit an offence against section 113 or 116 during the period of 90 days after the participation day.

### **317 Application of ss 113 and 116 to individual temporarily practising paramedicine in another jurisdiction**

- (1) This section applies to an individual who—

[s 52]

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- (a) usually practises paramedicine in a participating jurisdiction that has yet to enact a law that substantially corresponds with the provisions of this law about paramedicine; and
  - (b) temporarily takes or uses a title or does anything else, relating to paramedicine in another jurisdiction, that would contravene section 113 or 116; and
  - (c) complies with any regulation made under this Law about temporarily taking or using a title or doing anything else, relating to paramedicine in another jurisdiction.
- (2) The individual does not commit an offence against section 113 or 116.
- (3) In this section—
- another jurisdiction* means a participating jurisdiction in which the provisions of this Law about paramedicine apply.

## **Division 2      Other transitional provisions**

### **318 Deciding review period for decision on application made under section 125 before commencement**

- (1) This section applies if—
- (a) before the commencement, a registered health practitioner or student applied to a National Board under section 125 to change or remove a condition or change or revoke an undertaking; and

- (b) immediately before the commencement, the application had not been decided by the Board; and
  - (c) after the commencement, the Board's decision results in a registration or endorsement being subject to a condition, or an undertaking is still in place.
- (2) The National Board may decide a review period for the condition or undertaking under section 125(5A) and give the registered health practitioner or student notice under section 125(6).

**319 Deciding review period for decision after notice given under section 126 before commencement**

- (1) This section applies if—
  - (a) before the commencement, a National Board had given notice to a registered health practitioner or student under section 126 about changing a condition on the practitioner's or student's registration; and
  - (b) immediately before the commencement the Board had not made a decision in relation to the matter; and
  - (c) after the commencement, the Board's decision results in the practitioner's or student's registration being subject to a condition.
- (2) The National Board may decide a review period for the condition under section 126(5A) and give the registered health practitioner or student notice under section 126(6).

### **320 Membership of continued National Boards**

- (1) This section applies if—
  - (a) a person holds office as a member of a National Board immediately before the commencement; and
  - (b) the Board is continued in force after the commencement (the *continued Board*) by a regulation made under section 31.
- (2) The person continues to hold office as a member of the continued Board after the commencement—
  - (a) on the terms and conditions that applied to the person's appointment before commencement; and
  - (b) until the office of the member becomes vacant under this Law.
- (3) Also, a person who is Chairperson of a National Board immediately before the commencement continues to hold office as Chairperson of the continued Board after the commencement.
- (4) Subsection (5) applies if the process for appointing a person as a member of a National Board is started but not completed before the commencement.
- (5) The process may continue after the commencement and the person may be appointed as a member of the continued Board.

### **321 Offences relating to prohibition orders made before commencement**

Section 196A also applies to a prohibition order made before the commencement.

### **322 Register to include prohibition orders made before commencement**

- (1) For section 222(4)(b) and section 223(b), a National Board may also record in the register the names of persons subject to a prohibition order made before the commencement.
- (2) Also, for section 227(b), a National Board may also include in the register copies of prohibition orders made before the commencement.

### **323 Public national registers**

- (1) This section applies to a register kept under section 222 or 223 immediately before the commencement.
- (2) The register continues in force immediately after the commencement.

## **53 Amendment of sch 2 (Agency Management Committee)**

Schedule 2, clause 4(2)(b)—

*omit, insert—*

- (b) the member, as a result of the member's misconduct, impairment or incompetence—
  - (i) ceases to be a registered health practitioner; or
  - (ii) if the member is registered in more than one health profession—ceases to be registered in either or any of the health professions.

## **54 Amendment of sch 4 (National Boards)**

- (1) Schedule 4, clause 2—

*insert—*

[s 55]

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- (2) However, a member's term of office ends if the National Board to which the member was appointed is dissolved by a regulation made under section 31.
- (2) Schedule 4, clause 4(2)(b)—  
*omit, insert—*
  - (b) the member, as a result of the member's misconduct, impairment or incompetence—
    - (i) ceases to be a registered health practitioner; or
    - (ii) if the member is registered in more than one health profession—ceases to be registered in either or any of the health professions.

## **Division 2                      Other amendments of Health Practitioner Regulation National Law Act 2009**

### **55            Act amended**

This division amends the *Health Practitioner Regulation National Law Act 2009* (other than the Health Practitioner Regulation National Law set out in the schedule to the Act).

### **56            Amendment of s 8 (Police commissioner may give criminal history information)**

Section 8(1)(b), 'CrimTrac'—

*omit, insert—*

ACC

**57 Amendment of s 34 (Replacement of pt 8, div 5  
(Preliminary assessment))**

- (1) Section 34, inserted section 149—

*omit, insert—*

**149 Referral of matter to National Board**

The National Agency must immediately refer the matter to the National Board established for the health practitioner's or student's profession.

- (2) Section 34, inserted section 150(1)(a), 'by the Board'—

*omit, insert—*

in a health profession for which the Board is established

- (3) Section 34, inserted section 150(3)—

*omit, insert—*

- (3) If the National Board decides the referred matter relates to a person who is not registered in a health profession for which the Board is established but the Board reasonably suspects the person is registered in a health profession for which another National Board is established, the Board must refer the referred matter to that other Board.

- (4) Section 34, inserted section 151(1)(e)—

*omit, insert—*

- (e) the subject matter of the referred matter—
- (i) is being dealt with, or has already been dealt with, by another entity; or
  - (ii) has been referred by the Board to another entity to be dealt with by that entity; or
- (f) the health practitioner to whom the referred matter relates has taken appropriate steps to remedy the issue the subject of the referred matter and the Board reasonably believes no

[s 58]

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further action is required in relation to the referred matter.

## **58 Insertion of new s 35A**

After section 35—

*insert—*

### **35A Amendment of s 159A (Board may give information to notifier about immediate action)**

- (1) National Law provisions, section 159A, ‘notifier’—

*omit, insert—*

complainant

- (2) National Law provisions, section 159A, ‘notification’—

*omit, insert—*

complaint

## **59 Insertion of new s 37A**

After section 37—

*insert—*

### **37A Amendment of s 167A (Board may give information to notifier about result of investigation)**

- (1) National Law provisions, section 167A, ‘notifier’—

*omit, insert—*

complainant

- (2) National Law provisions, section 167A, ‘notification’—

*omit, insert—*



complaint

**60 Insertion of new s 40A**

After section 40—

*insert—*

**40A Amendment of s 177A (Board may give information to notifier about decision following assessor's report)**

- (1) National Law provisions, section 177A, 'notifier'—

*omit, insert—*

complainant

- (2) National Law provisions, section 177A, 'notification'—

*omit, insert—*

complaint

**61 Amendment of s 54 (Amendment of s 206 (National Board to give notice to registered health practitioner's employer))**

Section 54, heading—

*omit, insert—*

**54 Amendment of s 206 (National Board to give notice to registered health practitioner's employer and other entities)**

**62 Amendment of s 57 (Insertion of new pt 13)**

- (1) Section 57, heading, 'pt 13'—

*omit, insert—*

**pt 12A**

- (2) Section 57, inserted part 13, heading—

[s 63]

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*omit, insert—*

## **Part 12A                      Transitional provisions for Health Ombudsman Act 2013**

- (3) Section 57, inserted section 306, heading—

*omit, insert—*

### **305A Definitions for pt 12A**

- (4) Section 57, inserted sections 307 to 312—

*renumber* as inserted sections 305B to 305G.

## **Part 3                              Amendment of Health Ombudsman Act 2013**

### **63            Act amended**

This part amends the *Health Ombudsman Act 2013*.

### **64            Insertion of new s 43A**

After section 43—

*insert—*

#### **43A Relevant action may be taken despite referral**

The health ombudsman may take action under part 6 in relation to a health service complaint or other matter despite referring the complaint or matter to—

- (a) the National Agency under section 91; or
- (b) an entity of the State, another State or the Commonwealth under section 92.

**65 Amendment of s 58 (Power to take immediate registration action)**

Section 58(1)—

*insert—*

- (d) the health ombudsman reasonably believes the action is otherwise in the public interest.

*Example of when action may be taken in the public interest—*

A registered health practitioner is charged with a serious criminal offence, unrelated to the practitioner's practice, for which immediate registration action is required to be taken to maintain public confidence in the provision of services by health practitioners.

**66 Insertion of new ss 58A and 58B**

After section 58—

*insert—*

**58A Varying immediate registration action on health ombudsman's own initiative**

- (1) This section applies if, at any time after a decision to take immediate registration action in relation to a registered health practitioner, there is a material change in relation to the matter giving rise to the immediate registration action.
- (2) The health ombudsman may vary an immediate registration action only if—
  - (a) the health ombudsman reasonably believes the material change justifies varying the decision made; and
  - (b) the variation is on the grounds mentioned in section 58.

*Example of varying an immediate registration action—*

The health ombudsman varies an immediate registration action that suspended the registration of a health practitioner, to another immediate registration action

[s 66]

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that places conditions on the practitioner's registration so that the person can not have direct patient contact.

- (3) If the health ombudsman makes a decision (the *variation decision*) to vary the immediate registration action, sections 59 to 65, 94 and 279 apply to the variation decision as if it were, to the extent of the variation, a decision to take immediate registration action.

### **58B Varying immediate registration action on application by registered health practitioner**

- (1) A health practitioner may apply to the health ombudsman to vary an immediate registration action if there is a material change in relation to the matter giving rise to the immediate registration action.
- (2) An application under subsection (1) must—
  - (a) be in the approved form; and
  - (b) be accompanied by any other information reasonably required by the health ombudsman.
- (3) In deciding the application, the health ombudsman—
  - (a) must consider whether the material change justifies varying the action taken; and
  - (b) is limited to the grounds mentioned in section 58.
- (4) The health ombudsman must decide to do 1 of the following—
  - (a) vary the immediate registration action in the way requested in the application;
  - (b) vary the immediate registration action in a way that is different to that requested in the application;

- (c) not to vary the immediate registration action.
- (5) If the health ombudsman decides to vary the immediate registration action in the way requested in the application—
  - (a) the health ombudsman must give the practitioner who made the application written notice of the decision; and
  - (b) sections 62, 65, 94 and 279 apply to the variation decision as if it were, to the extent of the variation, a decision to take immediate registration action.
- (6) If the health ombudsman proposes to vary the immediate registration action in a way that is different to that requested in the application, sections 59(1) to (3), 60, 62 to 65, 94 and 279 apply to the variation decision as if it were, to the extent of the variation, a decision to take immediate registration action.
- (7) If the health ombudsman proposes not to vary the immediate registration action, the health ombudsman must give the practitioner who made the application written notice—
  - (a) stating the proposed decision; and
  - (b) inviting the practitioner to make a submission to the health ombudsman, within a stated period of at least 7 days, about the proposed decision.
- (8) The practitioner may make submissions orally or in writing.
- (9) The health ombudsman must have regard to any submissions made by the practitioner within the stated period before deciding not to vary the immediate registration action.
- (10) If the health ombudsman decides not to vary the

[s 67]

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immediate registration action, the health ombudsman must give notice of the decision to the practitioner stating the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the practitioner may apply to QCAT for a review of the decision;
- (d) how, and the period within which, the practitioner may apply for the review of the decision.

**67 Amendment of s 60 (Notice about immediate registration action)**

Section 60(4), note—

*omit, insert—*

*Note—*

Notice is also given to employers and may be given to particular health practitioners with whom the health practitioner shares premises under section 279.

**68 Amendment of s 64 (Health ombudsman must immediately take further relevant action)**

Section 64(a)—

*omit, insert—*

- (a) investigate the matter giving rise to the immediate action under part 8; or

**69 Amendment of s 68 (Power to issue interim prohibition orders)**

Section 68(1)—

*omit, insert—*

- (1) The health ombudsman may issue an interim

prohibition order to a health practitioner (other than in the person's capacity as a registered health practitioner) if—

- (a) the health ombudsman reasonably believes that—
  - (i) because of the practitioner's health, conduct or performance, the practitioner poses a serious risk to persons; and
  - (ii) it is necessary to issue the order to protect public health or safety; or
- (b) the health ombudsman reasonably believes issuing the order is otherwise in the public interest.

*Example of when issuing the order is in the public interest—*

A health practitioner is charged with a serious criminal offence, unrelated to the practitioner's practice, for which an interim prohibition order is required to be issued to maintain public confidence in the provision of services by health practitioners.

## **70 Insertion of new ss 68A and 68B**

After section 68—

*insert—*

### **68A Varying interim prohibition order on health ombudsman's own initiative**

- (1) This section applies if, at any time after a decision to issue an interim prohibition order to a health practitioner, there is a material change in relation to the matter giving rise to the issue of the interim prohibition order.
- (2) The health ombudsman may vary an interim prohibition order only if—

[s 70]

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- (a) the health ombudsman reasonably believes the material change justifies varying the decision made; and
- (b) the variation is on the grounds mentioned in section 68.

*Example of varying interim prohibition order—*

The health ombudsman varies an interim prohibition order prohibiting the person from providing a health service to persons under the age of 18, to an interim prohibition order prohibiting the person from providing any health service in a clinical or non-clinical capacity.

- (3) If the health ombudsman makes a decision (the ***variation decision***) to vary the interim prohibition order, sections 69 to 76, 78, 79, 94 and 279 apply to the variation decision as if it were, to the extent of the variation, a decision to issue an interim prohibition order.

**68B Varying interim prohibition order on application by health practitioner**

- (1) A health practitioner may apply to the health ombudsman to vary an interim prohibition order if there is a material change in relation to the matter giving rise to the issue of the interim prohibition order.
- (2) An application under subsection (1) must—
  - (a) be in the approved form; and
  - (b) be accompanied by any other information reasonably required by the health ombudsman.
- (3) In deciding the application, the health ombudsman—
  - (a) must consider whether the material change justifies varying the action taken; and



- (b) is limited to the grounds mentioned in section 68.
- (4) The health ombudsman must decide to do 1 of the following—
  - (a) vary the interim prohibition order in the way requested in the application;
  - (b) vary the interim prohibition order in a way that is different to that requested in the application;
  - (c) not to vary the interim prohibition order.
- (5) If the health ombudsman decides to vary the interim prohibition order in the way requested in the application—
  - (a) the health ombudsman must give the practitioner who made the application written notice of the decision; and
  - (b) sections 71, 73, 76, 78, 79, 94 and 279 apply to the variation decision as if it were, to the extent of the variation, a decision to issue an interim prohibition order.
- (6) If the health ombudsman proposes to vary the interim prohibition order in a way that is different to that requested in the application, sections 69(1) to (3), 70, 71, 73 to 76, 78, 79, 94 and 279 apply to the variation decision as if it were, to the extent of the variation, a decision to issue an interim prohibition order.
- (7) If the health ombudsman proposes not to vary the interim prohibition order, the health ombudsman must give the practitioner who made the application written notice—
  - (a) stating the proposed decision; and
  - (b) inviting the practitioner to make a submission to the health ombudsman, within

[s 71]

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a stated period of at least 7 days, about the proposed decision.

- (8) The practitioner may make submissions orally or in writing.
- (9) The health ombudsman must have regard to any submissions made by the practitioner within the stated period before deciding not to vary the interim prohibition order.
- (10) If the health ombudsman decides not to vary the interim prohibition order, the health ombudsman must give notice of the decision to the practitioner stating the following—
  - (a) the decision;
  - (b) the reasons for the decision;
  - (c) that the practitioner may apply to QCAT for a review of the decision;
  - (d) how, and the period within which, the practitioner may apply for the review of the decision.

## **71 Amendment of s 70 (Content of interim prohibition order)**

Section 70(a)—

*omit, insert—*

- (a) must state the details of the order that apply to the practitioner; and

## **72 Replacement of s 71 (Notice to complainant)**

Section 71—

*omit, insert—*

### **71 Notice to complainant**

If an interim prohibition order was issued in response to a complaint, the health ombudsman

must give the complainant a notice stating the details of the order that apply to the practitioner.

*Note—*

Notice is also given to employers and may be given to particular health practitioners with whom the health practitioner shares premises under section 279.

**73 Amendment of s 75 (Health ombudsman must immediately take further relevant action)**

Section 75(a)—

*omit, insert—*

- (a) investigate the matter giving rise to the issue of the order under part 8; or

**74 Amendment of s 84 (Progress reports)**

Section 84—

*insert—*

- (2) A person who has a right to be given a notice under subsection (1) may, by notice to the health ombudsman, waive the right.
- (3) At any time before the investigation is complete, a notice given by a person to the health ombudsman under subsection (2) may be withdrawn.

**75 Amendment of s 94 (QCAT's jurisdiction)**

Section 94(1)(a)—

*omit, insert—*

- (a) to review a decision by the health ombudsman—

[s 76]

---

- (i) to take immediate registration action in relation to a registered health practitioner; or
- (ii) to issue an interim prohibition order to a health practitioner; or
- (iii) not to vary an immediate registration action in relation to a registered health practitioner; or
- (iv) not to vary an interim prohibition order issued to a health practitioner; and

**76 Amendment of s 107 (Decision about registered health practitioner other than student)**

Section 107(4)(b)—

*omit, insert—*

- (b) prohibit the practitioner, either permanently or for a stated period, from—
  - (i) providing any health service or a specified health service; or
  - (ii) using any title or a specified title.

**77 Amendment of s 113 (Prohibition order)**

Section 113(4)(a)—

*omit, insert—*

- (a) prohibiting the practitioner, either permanently or for a stated period, from providing any health service or a stated health service; or

**78 Amendment of s 117 (Panels of assessors)**

(1) Section 117(b)(ix)—

*omit, insert—*

(ixa) a midwifery panel of assessors;

(ix) a nursing panel of assessors;

(2) Section 117(b)—

*insert—*

(xiia) a paramedics panel of assessors;

(3) Section 117(b)(ixa) to (xvi)—

*renumber* as section 117(b)(ix) to (xviii).

## **79 Amendment of s 277 (Meaning of *employer* for pt 19)**

Section 277, definition *employer*—

*insert—*

- (d) the practitioner is providing services to or on behalf of, whether in an honorary capacity, as a volunteer or otherwise, and whether or not the practitioner receives payment from the entity for the services.

## **80 Amendment of s 279 (Notice to employers about particular serious matters)**

(1) Section 279—

*insert—*

(2A) The health ombudsman may also give notice of the immediate action or investigation to other health practitioners with whom the health practitioner shares premises if—

- (a) the health practitioner is self-employed; and
- (b) the health practitioner shares the cost of the premises with the other practitioners.

(2) Section 279(3), ‘subsection (2) does’—

*omit, insert—*

[s 81]

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subsections (2) and (3) do

- (3) Section 279(4), ‘subsection (2)’—

*omit, insert—*

subsection (2) or (3)

- (4) Section 279(2A) to (4)—

*renumber* as section 279(3) to (5).

**81 Amendment of s 280 (Notice to employers about particular QCAT decisions)**

Section 280—

*insert—*

- (3) The health ombudsman may also give notice of the decision to other health practitioners with whom the health practitioner shares premises if—
- (a) the health practitioner is self-employed; and
  - (b) the health practitioner shares the cost of the premises with the other practitioners.

**82 Amendment of s 282 (Notice to employers about other matters)**

Section 282(2)—

*omit, insert—*

- (2) The health ombudsman may give notice of the matter to any of the following people if the health ombudsman considers it would be appropriate to do so, having regard to all the circumstances and to the paramount guiding principle—
- (a) a person the health ombudsman believes is an employer of the practitioner;
  - (b) other health practitioners with whom the health practitioner shares premises if—

- (i) the health practitioner is self-employed; and
- (ii) the health practitioner shares the cost of the premises with the other practitioners.

*Example—*

The health ombudsman may consider it appropriate to notify an employer if the health ombudsman receives a number of health service complaints about a health practitioner that suggest a pattern of conduct.

## Part 4                      Amendment of Ambulance Service Act 1991

### 83      Act amended

This part amends the *Ambulance Service Act 1991*.

### 84      Amendment of s 50D (Definitions for div 1)

- (1) Section 50D, definition *health professional*, paragraph (c)—  
*omit, insert—*

- (c) the midwifery profession;
- (ca) the nursing profession;

- (2) Section 50D, definition *health professional*—  
*insert—*

- (da) the paramedicine profession;

- (3) Section 50D, definition *health professional*, paragraphs (ca) to (g)—

*renumber* as paragraphs (d) to (i).

[s 85]

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**85 Amendment of s 50M (Disclosure to health ombudsman)**

Section 50M—

*insert—*

- (2) Also, a designated officer is authorised to disclose confidential information to the health ombudsman for the purpose of making, or giving information about, a complaint or notification under the Health Practitioner Regulation National Law (Queensland).

**86 Insertion of new s 50S**

Part 7, division 1—

*insert—*

**50S Disclosure to health practitioner registration board**

- (1) A designated officer is authorised to disclose confidential information if the disclosure is to a board established under the Health Practitioner Regulation National Law or to the National Agency for the purposes of—
  - (a) making, or giving information about, a complaint or notification about a person who is or was registered under the Health Practitioner Regulation National Law; or
  - (b) answering questions or otherwise giving information as part of an investigation or a proceeding about a person who is or was registered under the Health Practitioner Regulation National Law.
- (2) In this section—

***National Agency*** has the meaning given by the Health Practitioner Regulation National Law.



## Part 5 Other amendments

### 87 Legislation amended

- (1) Schedule 1, part 1 amends the Health Practitioner Regulation National Law set out in the schedule to the *Health Practitioner Regulation National Law Act 2009*.
- (2) Schedule 1, part 2 amends the Acts it mentions.

## **Schedule 1      Other amendments**

section 87

### **Part 1                      Minor or consequential amendments of Health Practitioner Regulation National Law**

**1      Section 5, definition *accreditation committee*, ‘the health profession’—**

*omit, insert—*

a health profession

**2      Section 7(1), (2) and (3), ‘established by this Law’—**

*omit, insert—*

established by or under this Law

**3      Section 14(1), ‘practising the profession’—**

*omit, insert—*

practising a profession

**4      Section 15, ‘the health profession’—**

*omit, insert—*

a health profession

**5      Section 26(1)(a), ‘the health profession’—**

*omit, insert—*

a health profession

**6 Section 38(1), ‘the health profession’—**

*omit, insert—*

a health profession

**7 Section 38(1)(b), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**8 Section 41, ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**9 Section 49(1) and (5), ‘the health profession’—**

*omit, insert—*

a health profession

**10 Section 51(2), ‘the health profession’—**

*omit, insert—*

a health profession

**11 Section 77(1), ‘the health profession’—**

*omit, insert—*

a health profession

**12 Section 83(1), ‘the health profession’—**

*omit, insert—*

a health profession

**13      Section 88(1)(a), ‘the health profession’—**

*omit, insert—*

a health profession

**14      Section 92(2), ‘that registered the person’—**

*omit, insert—*

established for the person’s health profession

**15      Section 94(1), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is  
established,

**16      Section 97(1), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is  
established

**17      Section 98(1), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is  
established

**18      Section 107(1), ‘that registered the practitioner’—**

*omit, insert—*

established for the practitioner’s health profession

**19      Section 124(1)(a) and (b), ‘the health profession’—**

*omit, insert—*

a health profession

**20      Section 125(1), ‘that registered the practitioner or student’—**

*omit, insert—*

established for the practitioner’s or student’s health profession

**21      Section 126(1), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**22      Section 127(1)(a) and (b), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**23      Section 129(2), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**24      Section 130(1), ‘that registered the practitioner or student’—**

*omit, insert—*

established for the practitioner’s or student’s health profession

**25      Section 131(1), ‘that registered the practitioner’—**

*omit, insert—*

established for the practitioner’s health profession

- 26 Section 137(1), ‘that registered the practitioner’—**  
*omit, insert—*  
established for the practitioner’s health profession
- 27 Section 143(3), ‘that registered the student’—**  
*omit, insert—*  
established for the student’s health profession
- 28 Section 148(1), ‘that registered the health practitioner or student’—**  
*omit, insert—*  
established for the practitioner’s or student’s health profession
- 29 Section 149(1)(a) and (3), ‘by the Board’—**  
*omit, insert—*  
in a health profession for which the Board is established
- 30 Section 149(3), ‘by another National Board’—**  
*omit, insert—*  
in a health profession for which another National Board is established
- 31 Section 150(5) and (7), ‘that registered the practitioner’—**  
*omit, insert—*  
established for the practitioner’s health profession
- 32 Section 151(1)(c), ‘by the Board’—**  
*omit, insert—*

in a health profession for which the Board is established

**33 Section 156(1), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**34 Section 160(1), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**35 Section 178(1)(a)(i) and (ii), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**36 Section 196(1)(b)(v), ‘that registered the practitioner’—**

*omit, insert—*

established for the practitioner’s health profession

**37 Section 217(2), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

**38 Section 223(a), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is established

Schedule 1

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**39 Section 232(1)(b), ‘by the Board’—**

*omit, insert—*

in a health profession for which the Board is  
established

**40 Section 233(1)(a), ‘the health profession’—**

*omit, insert—*

a health profession

**41 Schedule 4, section 10, ‘the health profession’—**

*omit, insert—*

a health profession

**42 Schedule 4, section 11(a) and (b), ‘the health  
profession’—**

*omit, insert—*

a health profession

## **Part 2 Other Acts amended**

### **Births, Deaths and Marriages Registration Act 2003**

**1 Schedule 2, definition *midwife*, from ‘nursing’ to ‘other’—**

*omit, insert—*

midwifery profession, other



## Child Protection Act 1999

- 1      **Schedule 3, definition *health practitioner*, paragraph (a)(ii)—**  
         *omit, insert—*  
                 (ii) the nursing profession;
- 2      **Schedule 3, definition *registered nurse*, paragraph (a)—**  
         *omit, insert—*  
                 (a) to practise in the nursing profession, other than as a student; and

## Coroners Act 2003

- 1      **Section 13(6), definition *nurse*, paragraph (a), ‘and midwifery’—**  
         *omit.*

## Corrective Services Act 2006

- 1      **Schedule 4, definition *nurse*, paragraph (a), ‘and midwifery’—**  
         *omit.*

## Disaster Management Act 2003

- 1      **Schedule, definition *government nurse*, paragraph (a)(i), ‘and midwifery’—**

*omit.*

- 2      **Schedule, definition *non-government nurse*, paragraph (a)(i), ‘and midwifery’—**

*omit.*

## Forensic Disability Act 2011

- 1      **Schedule 2, definition *registered nurse*, paragraph (a)—**

*omit, insert—*

- (a) to practise in the nursing profession, other than as a student; and

## Hospital and Health Boards Act 2011

- 1      **Section 138A, definition *midwife*, from ‘nursing’ to ‘other’—**

*omit, insert—*

midwifery profession, other

- 2      **Section 138A, definition *nurse*, paragraph (a)—**

*omit, insert—*

- (a) to practise in the nursing profession, other than as a student; and

## **Law Reform Act 1995**

- 1      Section 15, definition *nurse*, from ‘nursing’ to ‘other’—**  
*omit, insert—*  
nursing profession, other

## **Mental Health Act 2016**

- 1      Section 374(8), definition *registered nurse*, paragraph (a)—**  
*omit, insert—*  
(a) to practise in the nursing profession, other than as a student; and

## **Police Powers and Responsibilities Act 2000**

- 1      Schedule 6, definition *nurse*, paragraph (a)—**  
*omit, insert—*  
(a) to practise in the nursing profession, other than as a student; and

## **Police Service Administration Act 1990**

- 1      Section 5A.14(8), definition *registered nurse*, paragraph (a)—**  
*omit, insert—*

- (a) to practise in the nursing profession, other than as a student; and

## **Prostitution Act 1999**

**1 Section 102(4), definition *health practitioner*, paragraph (b)(i)—**

*omit, insert—*

- (i) to practise in the nursing profession, other than as a student; and

**2 Section 134A(6), definition *health professional*, paragraph (b)(i)—**

*omit, insert—*

- (i) to practise in the nursing profession, other than as a student; and

## **Public Health Act 2005**

**1 Schedule 2, definition *midwife*, from ‘nursing’ to ‘other’—**

*omit, insert—*

midwifery profession, other

**2 Schedule 2, definition *registered nurse*, paragraph (a)—**

*omit, insert—*

- (a) to practise in the nursing profession, other than as a student; and

## **Public Safety Preservation Act 1986**

**1 Schedule, definition *government nurse*, paragraph (a)(i)—**

*omit, insert—*

- (i) to practise in the nursing profession, other than as a student; and

**2 Schedule, definition *non-government nurse*, paragraph (a)(i)—**

*omit, insert—*

- (i) to practise in the nursing profession, other than as a student; and

## **Rail Safety National Law (Queensland) Act 2017**

**1 Section 15, definition *nurse*, paragraph (a)—**

*omit, insert—*

- (a) to practise in the nursing profession, other than as a student; and

## **Transport Operations (Road Use Management) Act 1995**

**1 Section 80(1), definition *nurse*, paragraph (a)—**

*omit, insert—*

- (a) to practise in the nursing profession, other than as a student; and

## **Weapons Act 1990**

**1      Section 151(4), definition *professional carer*, paragraph (c)—**

*omit, insert—*

- (c) a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession, other than as a student; or

## **Workers' Compensation and Rehabilitation Act 2003**

**1      Schedule 6, definition *nurse practitioner*, from 'nursing' to 'other'—**

*omit, insert—*

nursing profession, other

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